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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,724	11/13/2003	David W. Freet	93214.036	2060
Paul F. Wille 6407 East Clinton Street Scottsdale, AZ 85254				
7550 04/17/2008				
EXAMINER				
FOX, CHARLES A				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
04/17/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/713,724

## Applicant(s)

FREET ET AL.

## Examiner

Charles A. Fox

## Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-13, 15, 16, 23, 24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13, 15, 16, 23, 24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. Williams et al. US 6,726,435 teaches a device for a vehicle comprising:

a lift with a first horizontal telescoping member(16), coupled to said vehicle within a protected area;

a second vertical telescopic member (24) comprising at least two nested slides (52,54) attached to said first telescopic member;

a tool (12) comprising a platform coupled to said second telescopic member and movable along two orthogonal axes of motion defined by the telescopic members;

wherein both of the telescopic members have at least two nested slides;

wherein the first slide (28) has a pair of rollers (30) on each side and the second slide (14) has a pair of U-shaped channels for enclosing said rollers such that the slides provide telescopic action relative to a base member (36). Williams does not teach the particulars of the second telescopic assembly, but It would have been obvious to one of ordinary skill in the art, at the time of invention to use the same type of assembly as used in the horizontal telescopic section in order to allow the

nested slides to move freely without binding due to the moment force caused by placing a heavy object on the tool.

Claims 12,13,23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. as applied to claims 11 and 16 above, and further in view of Walkden. Williams et al. teach the limitations of claims 11 and 16 as above, they do not teach any particular structure to the vertical telescopic members. Walkden US 5,795,125 teaches a telescopic device comprising:

- a first slide member (22) with rollers (70) thereon;
- said rollers being mounted on each lateral side of said slide;
- said slides also have a block (72) thereon for engaging a channel on a side opposite the rollers;
- a second nested slide (24) said channels on opposite sides thereof;
- said channels enclosing said rollers and blocks to provide a telescopic action;
- wherein a block on either side of the slide is located between the two rollers on that respective side;

wherein said blocks stabilize the motion of the slide by biasing the carriage from side to side. While Walkden does not teach biasing the wheels relative to the blocks it is inherent that the wheels are preloaded as they are kept in a particular spacing via the blocks relative to the guide channels. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Williams et al. with a telescopic assembly as taught by Walkden in order to allow the

slides to move easily past one another while maintaining the alignment of said slides in all directions.

Claims 15, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. as applied to claims 11 and 16 above, and further in view of Ringdahl et al. Williams teaches the limitations of claims 11 and 16 as above, they also teach drive motors for vertical and horizontal movement of the tool with an associated controller being inherent in the system. They do not explicitly teach any type of switch for their controller. Ringdahl et al. US 6,357,992 teaches a lift device for a wheel chair said device including a single switch (502) that initiates lifting and lowering of a platform (10) wherein the switch is connected to a microprocessor. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Williams et al. with a double throw switch and a microprocessor in order to control the device with a minimum of switches.

### ***Response to Arguments***

Applicant's arguments filed February 4, 2008 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding the applicant assertion that the examiner is disparaging the Williams patent, this is incorrect. Using the reference with another does not disparage either or impinge on their adequacy in any manner. Rather they are used to show teaching that are well known to ordinary mechanics.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/  
Primary Examiner, Art Unit 3652